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**FILED**  
HARRISBURG, PA

SEP 04 2002

MARY E. ANDREA, CLERK  
Per [Signature]  
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PHAN HUE,

Plaintiff,

v.

JAMES UPDIKE, et al.,

Defendants.

Civil No. 01-CV-1064

(Judge Kane)

(Magistrate Judge Smyser) ✓

**STATEMENT OF POSITION PER COURT'S ORDER**  
**DATED AUGUST 21, 2002**

AND NOW comes Marsha M. Davis, counsel for the Corrections Defendants, who respond to the court's order of August 21, 2002 as follows:

1. Your Order dated August 21, 2002, directed the parties to file a statement of their position on whether or not the case should be stayed. The stay, as I understand it, is for the purpose of allowing Chief Judge Vanaskie to conduct inquiries with the Pennsylvania Medical Society and the Pro Bono Chair of the Federal Bar Association regarding a program to have panel physicians perform

initial examinations in these type of cases. The goal is said to be to take the guess-work out of whether or not to give inmates appointed counsel.

2. The Corrections Defendants have no objection to the stay for the purpose of seeking counsel for Mr. Phan Hue. We would request that a reasonable period of time be established, to ensure the protection of the due process rights of all parties involved.

3. The Department of Corrections believes its medical care is more than adequate and meets the community standard of care.

4. In the event the Court does order a stay in this case, we would request the Court enter an order clearly staying all other proceedings in this case. In addition, we request the Court to indicate that a subsequent case management order will follow. This will make the courts intentions clear to all parties as well as allow us another opportunity to prepare dispositive motions and pre-trial applications, when necessary.

Respectfully submitted,  
Office of General Counsel



Marsha M. Davis  
Assistant Counsel  
Attorney I.D. No. 28018  
Department of Corrections  
Office of Chief Counsel  
55 Utley Drive  
Camp Hill, PA 17011  
(717) 731-0444

Dated: September 4, 2002

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PHAN HUE,

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Civil No. 01-CV-1064

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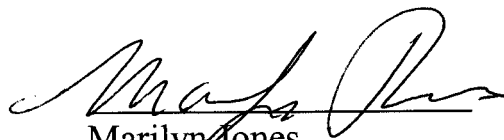
**CERTIFICATE OF SERVICE**

I hereby certify that I am this day depositing in the U.S. mail a true and correct copy of Defendants' Motion for Summary Judgment in the above-referenced matter.

Service by first-class mail addressed as follows:

Phan Hue, DY 0577  
SCI-Retreat  
660 State Route 11  
Hunlock Creek, Pa. 18621

Alan Gold, Esquire  
Monaghan & Gold, P.C.  
7837 Old York Road  
Elkins Park, PA 19027



Marilyn Jones  
Clerk Typist 2

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Dated: September 4, 2002